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DEPARTMENT OF PUBLIC WORKS

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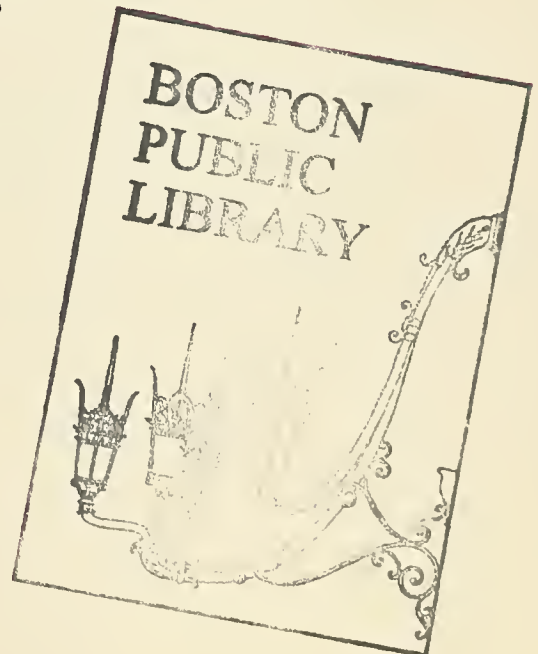
BUSINESS RELOCATION BROCHURE

740.35

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INTRODUCTION

This brochure is issued to provide a brief outline of the relocation benefits available to displaced businesses, farms, and nonprofit organizations, as provided for under Public Law 91-646, "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", and Mass. G. L. Chapter 81-7J, as amended. Each displaced business will have relocation problems that are unique to the relocation of its operation and cannot be satisfactorily answered in the general terms used in this brochure.

Therefore, the Right of Way Bureau will assign a Relocation Agent to each displacee. The agent will be available to assist each relocatee in all phases of the relocation and in the preparation of all documentation required to process the payment claim.

It is essential that the relocatee and the agent establish a close working relationship to ensure compliance with existing regulations and to facilitate the payment of claims.

? Why prior to acquisition; what is property is not acquired?
Prior to acquisition, you will be interviewed by a Relocation Agent who will prepare a detailed ^{listing} inventory of your needs and potential relocation resources. This material is the basis of the Right of Way Stage Relocation Plan, which must be approved by the Federal Highway Administration before property may be acquired for a federally-aided project.

INTRODUCTION - Continued

State Law allows you at least 120 days right of occupancy from the date you receive written notice to vacate. The Relocation Plan may provide more lead time to enable you to accomplish your move. The Relocation Section of the Right of Way Bureau of the Department of Public Works will help you find a place to relocate your business or farm. An on-site relocation office will be set up when necessary and you will be informed of its location. The relocation agent will have lists of available business properties and farms being offered for sale or lease which will be available to you. Information and maps about available properties and services offered by City, State and Federal Agencies in the area will also be available. When you are personally contacted by the relocation agent, inform him of your specific relocation needs and he will supply you with all available data. Always maintain contact with the relocation agent assigned to you.

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BUSINESSES, FARMS AND NONPROFIT ORGANIZATIONS

ACTUAL OR IN LIEU OF PAYMENT...

If you are a business operator, farm operator or a nonprofit organization you may be eligible for the "Actual Cost" of moving your personal property. You may be paid this amount whether moved by contractors or whether it is a self-move as explained on Page 6. A business operator or a farm operator may, if qualified, apply for "An In Lieu Of" payment of not less than \$2,500 nor more than \$10,000 depending on the particular circumstances, as explained on Page 8. The "In Lieu Of" payment is limited to \$2,500 to qualified nonprofit organizations.

WHAT IS A BUSINESS OPERATOR...

A business operator is any person engaged in any lawful activity conducted primarily for the purchase, sale, lease, and rental of personal or real property or resale, manufacture, processing or marketing of products, commodities, or other personal property; or for the sale of services to the public. This includes advertising displays whether or not on the premises on which these activities are conducted.

WHAT IS A FARM OPERATOR...

A farm operator is any person who conducts any activity solely or primarily for the production of one or more agricultural products or commodities, including timber for sale and home use, in sufficient quantity as to contribute materially to the operator's support.

WHAT IS A FARM OPERATOR...Continued

The profit from a part time operation must constitute at least one-third of the operator's income. Obvious farm operations need not meet this requirement.

WHAT IS A NONPROFIT ORGANIZATION...

A nonprofit organization is any corporation, partnership, individual or other public or private entity, engaged in a business, professional or instructional activity on a non-profit basis, necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, profession or institutional activity on the premises.

WHAT ARE MOVING EXPENSES...

A displaced business, farm or nonprofit organization may claim the actual reasonable costs of moving personal property. Moving costs or moving expenses include:

- Transporting personal property

- Dismantling

- Disconnecting

- Crating and packing

- Loading

- Insuring costs not to exceed replacement value

- Temporary storage not to exceed twelve months with
prior written approval of the Department

- Unloading

- Unpacking

- Reinstalling of personal property, including allowable expenses in connecting and reinstalling.

- Reimbursement for modification of personal property is allowed when required by law.

WHAT ARE MOVING EXPENSES...Continued

Advertising for estimates, when approved by the Department.

The reasonable replacement value of property lost, stolen, or damaged (not caused by negligence) where insurance to cover such loss, or damage, is not available.

WHAT EXPENSES ARE EXCLUDED...

Eligible relocation costs do not include:-

Additional expenses because of living in new location;

Costs of moving structures;

Improvements to new site unless required by law;

Interest on loans to cover moving expenses;

Loss of goodwill;

Loss of business or profits;

Loss of trained employees;

Personal injury;

Cost of application for moving;

Losses due to negligence of relocated person, his agents or employees.

PREPARATION FOR THE MOVE...

There are three available methods of accomplishing the actual physical move:-

1. A Commercial Mover
2. A Self-Move
3. A combination of 1 and 2.

The following preliminary steps must be taken regardless of which method you select to accomplish the move:-

1. A complete inventory must be made of all items to be moved showing quantities of each item. This inventory will be dated, signed and certified by the claimant or his authorized agent and verified and signed by the Department relocation agent.

PREPARATION FOR THE MOVE...Continued

2. Specifications for the move will be prepared. The specifications should clearly indicate the origin of the move; the destination; the inventory identified by date and number of pages; the inventory items requiring packing and unpacking, including estimated number of barrels, cartons, etc; items of inventory that require rigging or special handling and any other pertinent facts required in special or complicated moves.
3. Estimates from commercial movers...It is required that at least two (2) estimates be obtained from qualified commercial movers, broken down in applicable costs for each phase of work indicated in the specifications. The estimates shall clearly identify the inventory and specifications upon which it is based.

In many instances business and farm moves require the relocation of equipment and machinery that necessitate the use of tradesmen such as plumbers, electricians, carpenters, etc. In these instances specifications will be required in each category and two estimates from each trade.

The above requirements may seem excessive at first reading, however, your relocation agent is experienced in these areas and his close cooperation and assistance will simplify and expedite the processing of the final payment of your claim.

In complicated moves, the Department may retain expert consultants in the moving and trade fields to determine the fair and reasonable costs of the relocation.

AUTHORIZATION TO MOVE...

The next step in the process is to submit, through your relocation agent, copies of your inventory, specifications and estimates to the Relocation Section of the Right of Way Bureau. Following a review you will be authorized in writing to move for a sum usually based on the low estimate submitted. In the event that unforeseen expenses occur, through no fault of either you or the Department, that cause the final payment claim to exceed the authorized amount, the Department will consider the facts involved and may include the additional costs in the claim.

NOTIFICATION OF INTENT TO MOVE...

Included in the envelope containing your authorization to move will be a form letter concerning your intention to vacate the state acquired premises. This form must be returned to the Department at least seven (7) days prior to commencing your move. This is to insure that our relocation agent will be on the premises to monitor the move. By this time you will have selected the best method to use for your particular needs. The following records must be kept and submitted to support your claim for payment:-

1. Commercial Move.

This is usually the simplest method of making a move. The records required include: Bills of lading, and itemized bill indicating dates and hours worked of both personnel and equipment at the rates submitted on the estimate and copies of both sides of all cancelled checks by which payment has been made.

NOTIFICATION OF INTENT TO MOVE...Continued

2. Self-Move.

The total costs submitted in this method may not exceed the authorized low estimate amount. Records must be kept indicating the social security number, rate of pay, hours and dates worked by all personnel, a signed statement from each employee that he received the wages indicated for work on the relocation and an explanation of the duties each employee performed, such as truck driver, helper, packer, etc. Similar records must be kept on all equipment used such as trucks, fork lifts, etc.

3. Combination Commercial and Self-Move.

The documentation required for each phase will comply with the appropriate section above.

ACTUAL DIRECT LOSS OF TANGIBLE PERSONAL PROPERTY...

In addition to the actual reasonable costs of moving, the business, farm or nonprofit organization is entitled to the actual direct loss of tangible personal property as follows:

- (1) After a bona fide effort has been made to sell the item involved, if the business is to be reestablished and the item of personal property which is used in connection with the operation is not moved but promptly replaced with a comparable item at the new location, the reimbursement shall be the lesser of:
 - (a) the replacement cost minus the net proceeds of the sale; or
 - (b) the estimated cost of moving the item.

ACTUAL DIRECT LOSS OF TANGIBLE PERSONAL PROPERTY...Continued

- (2) If the operation is being discontinued or the item is not to be replaced in the reestablished operation, the payment will be the lesser of:
 - (a) the difference between the depreciated value of the item in place and net proceeds of the sale; or
 - (b) the estimated cost of moving the item.
- (3) If a bona fide sale is not effected under (1) or (2) above because no offer is received for the property, the owner shall be entitled to the reasonable expense of the sale and the estimated cost of moving the item.
- (4) When personal property is abandoned with no effort being made by the owner to dispose of it by sale or by its removal at no cost to the Department, the owner will not be entitled to moving expenses, or losses, for the items involved.

What Records To Keep

The sale prices, if any, and the actual, reasonable costs of advertising and conducting the sale shall be supported by copies of bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records, and other data supporting the bona fide nature of the sale.

ACTUAL REASONABLE EXPENSES IN SEARCHING FOR A REPLACEMENT BUSINESS...

In addition to the actual reasonable cost of moving and the actual direct loss of tangible personal property, the businessman, farm operator and nonprofit organization is entitled to the actual reasonable expenses in searching for a replacement business, not to exceed \$500.00. Search expenses greater than \$500.00 may be authorized when determined necessary by the Department. Such expenses may include transportation expenses, meals, lodging away from home and the reasonable value of time actually spent in search, including the fees of real estate agent or real estate brokers.

What Records To Keep

All expenses claimed except value of time actually spent in search must be supported by receipted bills. Payment for time actually spent in search shall be based on the applicable hourly wage rate for the person(s) conducting the search but may not exceed \$10.00 per hour. A certified statement of the time spent in search and hourly wage rate(s) shall accompany the claim.

IN LIEU OF PAYMENT...

The businessman or farm operator of a discontinued or relocated operation is eligible to receive a payment equal to the average annual net earnings of the operation except that such payment shall be not less than \$2,500.00 nor more than \$10,000.00 providing the following requirements are met. Nonprofit organizations may qualify for a \$2,500.00 payment. To be entitled to this payment the Right of Way Bureau must determine that:

- (1) The business or farm cannot be relocated without a substantial loss of its existing patronage.

IN LIEU OF PAYMENT...Continued

- (2) The business or farm is not part of a commercial enterprise having at least one other establishment which is not being acquired by the Commonwealth or the United States and which is engaged in the same or similar business or farm operation.
- (3) A part-time individual or family occupation in the home which does not contribute materially to the income of the displaced owner is not eligible for this payment.

How Is Payment Computed

The "average annual net earnings" is used as the measure for computing the payment. The term "average annual net earnings" means one-half of any net earnings of the business before Federal, State and local income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm is relocated. A two year period other than that, prior to displacement may be used in computing the in-lieu payment, when approved by the Department (and with prior concurrence of the Division Office.) "Average annual net earnings" include any compensation paid by the business or farm to the owner, his spouse, or his dependents during the two-year period.

What Is Needed To Prove Earnings

Such earnings and compensation will be established by use of the Federal income tax returns filed by the business or farm operator and its owner, his spouse and his dependents during the two-year period. FHWA regulations allow use of city, county, State or Federal returns, or certified financial statements, provided, of course, that any records used be adequate to support eligible income upon review of these records by the State. In the case of a corporation, earnings shall include

IN LIEU OF PAYMENT...Continued

any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

In Business Less Than Two Years

A taxable year is defined as any 12-month period used by the business or farm in filing income tax returns. Where the business or farm was in operation for twelve consecutive months or more, but was not in operation during the entire two preceding taxable years, the payment shall be computed by dividing the net earnings by the number of months the business was operated and multiplying by twelve.

Who Secures The Records

For the owner of a business or farm to be entitled to his payment, the business or farm must provide information to support its net earnings.

What If Only Part Of Farm Is Taken

In the case of a partial taking of a farm, the property remaining after the acquisition must no longer be an economic unit as determined by the Right of Way Bureau in its appraisal process. If it is still an economic unit, then the farm operator is not entitled to the "In Lieu Of" payment.

ADVERTISING SIGNS

RIGHTS OF ADVERTISING SIGN OWNER...

The owner of a displaced advertising sign is eligible to receive a payment for actual reasonable moving and related expenses which include:-

ADVERTISING SIGNS...Continued

ACTUAL REASONABLE EXPENSE OF MOVING...

Actual reasonable expenses in moving his advertising sign as is eligible for businesses and farms.

ACTUAL DIRECT LOSSES OF TANGIBLE PERSONAL PROPERTY...

Actual direct losses of tangible personal property when he is entitled to relocate the sign but does not do so. The amount of such loss will be the lesser of...(a) the depreciated reproduction cost of the sign as determined by the Right of Way Bureau; or (b) the estimated cost of moving the sign.

ACTUAL REASONABLE EXPENSES SEARCHING FOR NEW SIGN SITE...

The owner of a displaced advertising sign may be reimbursed for his actual reasonable expenses in searching for a replacement sign site not to exceed \$100. Such expenses may include transportation expenses, meals, lodging away from home and the reasonable value of time actually spent in search, including the fees of real estate agents or brokers. In exceptional cases, and with prior approval of the Right of Way Bureau, an amount greater than \$100 but not more than \$500, may be authorized when circumstances so require.

ADVERTISING SIGNS...Continued

What Records Needed

All expenses claimed except value of time actually spent in search must be supported by receipted bills. Payment for time actually spent in search shall be based on the applicable hourly wage rate for the person(s) conducting the search but may not exceed \$10 per hour. A certified statement of the time spent in search and hourly wage rate(s) shall accompany the claim.

APPEALS

RIGHT TO APPEAL...

If a person has been denied a payment or he believes he should receive a greater amount than what has been computed, he should bring to the attention of the Commissioner, in writing, the facts and reasons he believes the claim should be paid or adjusted.

How Is This Done

The Commissioner will assign the matter to the Hearing Examiner who will appoint a Hearing Officer to hear the matter promptly and issue a prompt decision. Address your request for an appeal to:

Commissioner, Department of Public Works
100 Nashua Street
Boston, Massachusetts 02114

WHEN TO FILE APPEAL...

Appeals may be requested anytime up to 18 months after the date on which you were required to vacate, or 60 days after notice of the decision of the Department is made known to displacee, whichever is later.